

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MICHAEL      ) APPEAL NO. 07-A-2437  
W. BRINKER from the decision of the Board of      ) FINAL DECISION  
Equalization of Owyhee County for tax year 2007.      ) AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing December 18, 2007 in Murphy, Idaho before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Michael W. Brinker appeared at hearing. Assessor Brett Endicott and Appraiser Ted Sherburn appeared for Respondent Owyhee County. This appeal is taken from a decision of the Owyhee County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP00560002012BA.

**The issue on appeal is the market value of residential property.**

**The decision of the Owyhee County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$145,000, and the improvements' valuation is \$170,389, totaling \$315,389. Appellant requests the land value be reduced to \$106,548 (Appellant's Exhibit No. 1, page 6), and the improvements' value remain at \$170,389, totaling \$276,937.

The subject property is a 1.27 acre lot improved with a residence. The property is located in a subdivision (Sky Park) that borders the Snake River and has a private airstrip. Subject is one of the properties situated next to the runway, but not fronting on the river. Subject and the other lots in the subdivision enjoy access to a common area along the shoreline, as well as access to the runway.

Appellant primarily based the land value claim on two (2) sales of property within the Sky Park subdivision. Both sales involved improved property and occurred in mid-2006. To isolate

the underlying land value, the assessed value of the improvements were deducted from the sale prices. No other adjustments were made.<sup>1</sup> The sales then indicated \$1.75 and \$2.53 per square foot, for land sizes of 1.18 and 1.23 acres respectively. The latter sale was listed on the open market through a realtor service. The first sale was consummated by word of mouth and involved a hanger, but no separate residence. The two indicated land rates were averaged (\$2.14/sq.ft.) and a 10% adjustment was deducted for negative value factors inherent to Sky Park and the subject property. A list of 11 negatives was provided. A few examples included: adjacent to an active runway, adjacent to a State Highway, and adjacent to a public camping, picnic and swimming area.

Certain equity concerns were also raised and discussed at hearing. Appellant made multiple comparisons between the assessed value of the subject land and other property assessments, including homesites not located in subdivisions.

The County noted a number of legal standards applicable to property assessment. One such reference was to Idaho Code § 63-205(1) which requires all real property subject to assessment be appraised at market value as of 12:01 a.m. of the first day of January in the current tax year. Further information was then shared on how County assessments are measured by the State Tax Commission (STC) for compliance with the current market value standard.

In 2006, the County was notified by the STC that its subdivision ground was significantly out of compliance (under-assessed). The median assessment level for the subdivision lot sales studied was 63% of market value. The County proceeded in 2007 to review all subdivision

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<sup>1</sup>Posthearing, a "time adjustment" was made to the selling prices. This had the affect of increasing the land value claim to \$117,003.

values. Subject's assessment was increased significantly, most particularly with respect to the land component. The 2007 assessed values of subdivision lots were tested against new sales prices and the median assessment ratio was reported to be at 93%. Within Sky Park, two residence's that sold in 2006 indicated assessment ratios of 86% and 101% before any time adjustment.

Although there were a large number of sales countywide, it was reported certain areas in Sky Park had insufficient sales to develop land values without reference to other high-amenity subdivisions. The Assessor studied subdivision sales separately from non-subdivided land categories. Due to rapid market appreciation, sale prices were time-adjusted before use in the 2007 reappraisal and trending. A STC program was used to determine the time adjustment factors. Three (3) repeat sales from within Sky Park indicated the following time adjustments 7.06%, 7.59% and .72% per month. The test period ran from the last quarter of 2005 in the first instance, to halfway through 2007 in the last instance. The first instances concerned raw land and the estimated time adjustment for land was determined to be 7.33% per month. The rate for adjusting improved sale prices was determined to be .72% per month.

The 2007 land values within Sky Park, pertaining to subject and similarly situated properties, were characterized as site values. The subdivision was divided into three (3) areas: 1) riverfront, 2) subject's location between the runway and the highway, and 3) property across the highway. Different lot values were established for each area.

Most available sales were for Sky Park lots across the highway where the homesites averaged about \$91,000 each. Subject's block had a lot and hanger sale, which after time adjustment and removal of the improvement's value, indicated \$96,000 for the site. Two other abstractions with residences indicated site values of \$124,000 and \$151,000. The lots' assessed

values were not based on a rate per square foot as calculated by Appellant. On the square foot basis, subject lot's assessed value of \$145,000 would indicate a rate of \$2.62.

Both parties presented an allocation of the total land value to the first acre under the residence. This step was pursued to calculate the homestead exemption which applies to residential improvements and the land value associated with the first acre.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Subject is an improved residential property. However the parties largely focus their respective value cases on the underlying land value. Residential land is typically valued by reference to the recent selling prices of "like" property. Appraisal adjustments are made for differences between the selling property and the subject as warranted. Subject's orientation to the Snake River and a private runway are rather unique. Sky Park is reportedly the only subdivision in the area with lots so situated. The determination of lot values in Sky Park was complicated by a limited number of good, recent comparable sales in a marketplace with rapidly appreciating prices. There were no bare lot sales in subject's area of Sky Park.

The Taxpayer looked in part to other assessments in determining and supporting the lot's fair market value. The Board did not find these assessed values were good evidence of market value, nor did they support an equity adjustment. Also considered and of chief importance was price information from two (2) timely 2006 sales within Sky Park. Both sales had improvements which required sizable adjustments to isolate the underlying land value. The sales suggested

two widely divergent values of \$1.75 and \$2.53 per square foot or about \$90,000 and \$135,000 respectively. The values presented here are before any price adjustment for date of sale. Appellant reconciled the wide value spread by averaging. The Board is not persuaded the averaging was appropriate. Certainly it was not the only way to consider the question of value.

After averaging, Appellant then made further adjustment for negatives. The Board finds the adjustment double-counted the influence of the alleged negatives. The value impact of these factors, all inherent to the subdivision, would already be fully reflected in sale prices from the subdivision. To adjust further for the same factors would be counting the same impact twice.

The subject lot's assessed value is very near the higher of the two (2) value indicators in Appellant's case. This was the sale that included a residence and hanger and that was consummated after a realtor's open market listing. The other lower sale price was based on an oral agreement which may have had an impact on the sale price. In our judgment the realtor sale was the better or more credible market value indicator. Respondent did not rely on just this sale, but considered a number of other sales in Sky Park, plus land price information from other high-amenity subdivisions. Attention was given to time adjusting all sale information for date of sale. Appellant ultimately considered this too, but not as thoroughly.

The consideration of more information does not in itself always mean a better supported case. Taxpayer's value was supported by recent proximate sales of similar property. However in this instance, the Board finds Appellant has not proven error by a preponderance of the evidence. Idaho Code § 63-511(4). After considering the available evidence for the land's contribution to market value, the assessed value was found to be the better supported estimate. Therefore the Board will affirm the value decision of the Owyhee County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Owyhee County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

**MAILED APRIL 4, 2008**